

Jamestown, NY, Chautauqua County/
Jamestown, Takeoff Minimums and
Obstacle DP, Amdt 6

Williamson/Sodus, NY, Williamson/Sodus,
Takeoff Minimums and Obstacle DP, Orig

Clarion, PA, Clarion County, Takeoff
Minimums and Obstacle DP, Orig

Titusville, PA, Titusville, Takeoff Minimums
and Obstacle DP, Orig

Wilkes-Barre/Scranton, PA, Wilkes-Barre/
Scranton Intl, ILS OR LOC/DME RWY 4,
Amdt 35

Wilkes-Barre/Scranton, PA, Wilkes-Barre/
Scranton Intl, ILS OR LOC/DME RWY 22,
Amdt 5

Wise, VA, Lonesome Pine, GPS RWY 6, Orig,
CANCELLED

Wheeling, WV, Wheeling Ohio CO, VOR
RWY 21, Amdt 15

Wheeling, WV, Wheeling Ohio CO, ILS OR
LOC RWY 3, Amdt 21

Wheeling, WV, Wheeling Ohio CO, RNAV
(GPS) RWY 21, Orig

Wheeling, WV, Wheeling Ohio CO, Takeoff
Minimums and Obstacle DP, Amdt 3

Effective 30 AUG 2007

Albertville, AL, Albertville Rgnl/Thomas J
Brumlik Fld, Takeoff

Minimums and Obstacle DP, Orig

Russellville, AR, Russellville Regional,
RNAV (GPS) RWY 7, Orig

Atlanta, GA, Dekalb-Peachtree, RNAV (RNP)
Z RWY 20L, Orig

Atlanta, GA, Dekalb-Peachtree, RNAV (RNP)
RWY 2R, Orig

Atlanta, GA, Fulton County Airport-Brown
Field, RNAV (RNP) Z RWY 8, Orig

Augusta, GA, Augusta Regional at Bush
Field, ILS OR LOC RWY 35, Amdt 27

Cartersville, GA, Cartersville, RNAV (GPS)
RWY 19, Amdt 1

Sylvania, GA, Plantation Arpk, RNAV (GPS)
RWY 5, Orig

Sylvania, GA, Plantation Arpk, RNAV (GPS)
RWY 23, Orig

Maquoketa, IA, Maquoketa Muni, NDB RWY
15, Amdt 3, CANCELLED

Chicago/Romeoville, IL, Lewis University,
RNAV (GPS) RWY 2, Orig

Chicago/Romeoville, IL, Lewis University,
RNAV (GPS) RWY 9, Orig

Chicago/Romeoville, IL, Lewis University,
RNAV (GPS) RWY 20, Orig

Chicago/Romeoville, IL, Lewis University,
RNAV (GPS) RWY 27, Orig

Chicago/Romeoville, IL, Lewis University,
LOC/DME RWY 9, Amdt 1

Chicago/Romeoville, IL, Lewis University,
VOR RWY 9, Amdt 3

Chicago/Romeoville, IL, Lewis University,
GPS RWY 9, Orig, CANCELLED

Chicago/Romeoville, IL, Lewis University,
GPS RWY 27, Amdt 2, CANCELLED

Chicago/Romeoville, IL, Lewis University,
Takeoff Minimums and Obstacle DP, Orig

Danville, IL, Vermilion County, RNAV (GPS)
RWY 3, Orig

Danville, IL, Vermilion County, RNAV (GPS)
RWY 21, Orig

Danville, IL, Vermilion County, RNAV (GPS)
RWY 34, Orig

Danville, IL, Vermilion County, VOR/DME
RWY 3, Amdt 12

Danville, IL, Vermilion County, VOR RWY
21, Amdt 14

Danville, IL, Vermilion County, VOR/DME
RNAV OR GPS RWY 34, Amdt 4A,
CANCELLED

Freeport, IL, Albertus, ILS OR LOC RWY 24,
Orig

Freeport, IL, Albertus, RNAV (GPS) RWY 6,
Orig

Freeport, IL, Albertus, RNAV (GPS) RWY 24,
Amdt 1

Freeport, IL, Albertus, LOC RWY 24, Orig-C,
CANCELLED

Freeport, IL, Albertus, VOR/DME RNAV OR
GPS RWY 6, Amdt 5C, CANCELLED

Huntingburg, IN, Huntingburg, NDB RWY 27,
Amdt 3

Albert Lea, MN, Albert Lea Muni, RNAV
(GPS) RWY 16, Amdt 1

Roseau, MN, Roseau Muni/Rudy Billberg
Field, RNAV (GPS) RWY 16, Orig

Roseau, MN, Roseau Muni/Rudy Billberg
Field, RNAV (GPS) RWY 34, Orig

Roseau, MN, Roseau Muni/Rudy Billberg
Field, VOR RWY 16, Amdt 8

Roseau, MN, Roseau Muni/Rudy Billberg
Field, VOR RWY 34, Amdt 1

Roseau, MN, Roseau Muni/Rudy Billberg
Field, Takeoff Minimums and Obstacle DP,
Orig

Lee's Summit, MO, Lee's Summit Municipal,
NDB RWY 18, Amdt 1A, CANCELLED

Lee's Summit, MO, Lee's Summit Municipal,
NDB RWY 36, Orig, CANCELLED

Batesville, MS, Panola County, Takeoff
Minimums and Obstacle DP, Orig

Starkville, MS, George M Bryan, RNAV (GPS)
RWY 36, Amdt 1

Gastonia, NC, Gastonia Muni, RNAV (GPS)
RWY 3, Amdt 1A

Gastonia, NC, Gastonia Muni, RNAV (GPS)
RWY 21, Orig-A

Gastonia, NC, Gastonia Muni, VOR/DME OR
GPS-A, Amdt 4, CANCELLED

Findlay, OH, Findlay, RNAV (GPS) RWY 18,
Amdt 1

Findlay, OH, Findlay, RNAV (GPS) RWY 25,
Amdt 1

Findlay, OH, Findlay, RNAV (GPS) RWY 36,
Amdt 1

Findlay, OH, Findlay, Takeoff Minimums
and Obstacle DP, Orig

Hamilton, OH, Butler Co Rgnl, ILS OR LOC
RWY 29, Amdt 1

Hamilton, OH, Butler Co Rgnl, RNAV (GPS)
RWY 11, Orig

Hamilton, OH, Butler Co Rgnl, RNAV (GPS)
RWY 29, Orig

Hamilton, OH, Butler Co Rgnl, GPS RWY 11,
Orig, CANCELLED

Hamilton, OH, Butler Co Rgnl, GPS RWY 29,
Amdt 2, CANCELLED

Hamilton, OH, Butler Co Rgnl, NDB-A, Amdt
3, CANCELLED

Marion, OH, Marion Muni, RNAV (GPS)
RWY 7, Orig

Marion, OH, Marion Muni, RNAV (GPS)
RWY 25, Orig

Marion, OH, Marion Muni, VOR-A, Amdt 1

Marion, OH, Marion Muni, GPS RWY 25,
Orig-B, CANCELLED

Marion, OH, Marion Muni, Takeoff
Minimums and Obstacle DP, Orig

Fairview, OK, Fairview Muni, NDB RWY 17,
Amdt 4, CANCELLED

Salem, OR, McNary Fld, RNAV (GPS) Y RWY
31, Orig-A

Salem, OR, McNary Fld, RNAV (GPS) Z RWY
31, Amdt 1A

Salem, OR, McNary Fld, LOC BC RWY 13,
Amdt 6D

Salem, OR, McNary Fld, LOC/DME RWY 31,
Amdt 2B

Pierre, SD, Pierre Regional, RNAV (GPS)
RWY 7, Amdt 2

Pierre, SD, Pierre Regional, RNAV (GPS)
RWY 13, Amdt 2

Pierre, SD, Pierre Regional, RNAV (GPS)
RWY 25, Amdt 2

Amarillo, TX, Rick Husband Amarillo Intl,
Takeoff Minimums and Obstacle DP,
Amdt 1

Canadian, TX, Hemphill County, Takeoff
Minimums and Obstacle DP, Amdt 2

Beaver, UT, Beaver Muni, RNAV (GPS)-A,
Orig

Beaver, UT, Beaver Muni, Takeoff Minimums
and Obstacle DP, Orig

Ogden, UT, Ogden-Hinckley, ILS OR LOC
RWY 3, Amdt 4A

Seattle, WA, Seattle-Tacoma Intl, ILS OR
LOC/DME RWY 34R, Orig-E, ILS RWY 34R
(CAT II)

Shawno, WI, Shawno Muni, Takeoff
Minimums and Obstacle DP, Amdt 2

Effective 25 OCT 2007

Logansport, IN, Logansport/Cass County,
NDB RWY 9, Amdt 2A, CANCELLED

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA84

Financial Crimes Enforcement Network; Amendments to Bank Secrecy Act Regulations Regarding Casino Recordkeeping and Reporting Requirements

AGENCY: Financial Crimes Enforcement
Network, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Financial Crimes
Enforcement Network (FinCEN) is
issuing this final rule to amend the Bank
Secrecy Act regulation requiring casinos
to report transactions in currency.
Specifically, the amendments exempt,
as reportable transactions in currency,
jackpots from slot machines and video
lottery terminals, as well as
transactions, under certain conditions,
involving certain money plays and bills
inserted into electronic gaming devices.
We also are exempting certain
transactions between casinos and
currency dealers or exchangers, and
casinos and check cashers. Finally, the
amendments provide additional
examples of “cash in” and “cash out”
transactions.

DATES: *Effective Date:* June 26, 2007.

FOR FURTHER INFORMATION CONTACT:
Regulatory Policy and Programs

Division, Financial Crimes Enforcement Network, (800) 949-2732.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background

The Director of FinCEN is the delegated administrator of the Bank Secrecy Act.¹ The Bank Secrecy Act authorizes the Director to issue regulations that require all financial institutions defined as such in the Bank Secrecy Act to maintain or file certain reports or records that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism and to prevent, deter, and detect money laundering.²

Casinos are cash-intensive businesses that also offer a broad array of financial services. These services include providing customer deposit or credit accounts, transmitting and receiving funds transfers directly from other financial institutions, check cashing, and currency exchanging. Consequently, casinos offer services that are similar to and may serve as substitutes for services ordinarily provided by depository institutions and certain non-bank financial institutions. As such, casinos are vulnerable to abuse by money launderers, terrorist financiers, and tax evaders.

In general, state-licensed casinos were made subject to the Bank Secrecy Act by regulation in 1985.³ The 1985 rulemaking was based on the authority of the Secretary of the Treasury to designate as financial institutions for Bank Secrecy Act purposes: (i) Businesses that engage in activities that are “similar to, related to, or a substitute for” the activities of businesses defined as “financial institutions”⁴ in the Bank Secrecy Act and (ii) other businesses “whose cash transactions have a high

degree of usefulness in criminal, tax, or regulatory matters.”⁵ Congress later explicitly added casinos and other gaming establishments to the definition of “financial institution” in the Bank Secrecy Act.⁶ Casinos authorized to conduct business under the Indian Gaming Regulatory Act became subject to the Bank Secrecy Act by regulation in 1996,⁷ and card clubs became subject to the Bank Secrecy Act by regulation in 1998.⁸

B. Casino Currency Transaction Reporting Requirements

Regulations under the Bank Secrecy Act define a “transaction in currency” as any transaction “involving the physical transfer of currency from one person to another.”⁹ Casinos must report each transaction in currency involving “cash in” or “cash out” of more than \$10,000,¹⁰ and are required to aggregate transactions in currency (that is, treat the transactions as a single transaction) if the casino has knowledge that the transactions are conducted by or on behalf of the same person and result in cash in or cash out of more than \$10,000 during any gaming day.¹¹ The rule requiring casinos to report transactions in currency also lists examples of transactions in currency involving cash in and cash out.¹²

Casinos must report transactions in currency by filing FinCEN Form 103—“Currency Transaction Report by Casinos.” A casino must record on the

Currency Transaction Report identifying information for persons involved in the transaction, verify identifying information, and include information describing the transaction.¹³ In addition, a casino must file the report within 15 days following the date of the reportable transaction and retain a copy of the report for a period of five years from the date of the currency transaction(s).¹⁴

II. Notice of Proposed Rulemaking

The final rule contained in this document is based on the Notice of Proposed Rulemaking published March 21, 2006 (“Notice”).¹⁵ The Notice proposed to exempt from coverage of the rule requiring casinos to file Currency Transaction Reports: (i) Jackpots from slot machines and video lottery terminals, (ii) certain transactions between casinos and currency dealers or exchangers, and (iii) certain transactions between casinos and check cashers. Also, the Notice proposed to provide additional examples of cash in and cash out transactions.

III. Comments on the Notice—Overview and General Issues

The comment period for the Notice of Proposed Rulemaking ended on May 22, 2006. We received a total of 16 comment letters. Of these, five were submitted by casinos, two by casino trade associations, seven by agencies representing state or tribal governments, one by a casino gaming equipment manufacturer, and one by an agency of the United States Government.

There was strong support for exempting the following transactions from the requirement to file Currency Transaction Reports: (i) Jackpots from slot machines and video lottery terminals, (ii) certain transactions between casinos and currency dealers or exchangers, and (iii) certain transactions between casinos and check cashers. In addition, commenters were generally supportive of nine of the eleven additional examples of cash in and cash out transactions.

The following two proposed amendments received extensive comment: (i) The addition of “money plays” as “bets of currency” and

⁵ See 31 U.S.C. 5312(a)(2)(Y) and (Z).

⁶ Section 409 of the Money Laundering Suppression Act of 1994, Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325. The definition of “financial institution” currently reads in relevant part as follows:

(2) Financial institution means—

* * * * *

(X) A casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which—

(i) Is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) Is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act); * * * 31 U.S.C. 5312(a)(2)(X).

⁷ See 61 FR 7054 (Feb. 23, 1996).

⁸ See 63 FR 1919 (Jan. 13, 1998). Card clubs generally are subject to the same rules as casinos, unless a different treatment for card clubs is explicitly stated in our rules. Therefore, for purposes of this rulemaking, and unless the context indicates otherwise, the term “casino” refers to both casinos and to card clubs.

⁹ See 31 CFR 103.11(ii)(2).

¹⁰ See 31 CFR 103.22(b)(2).

¹¹ See 31 CFR 103.22(c)(3).

¹² See 31 CFR 103.22(b)(2)(i) and (ii). The list is not exhaustive. The terms cash in and cash out refer to direction—currency to the casino in the case of cash in transactions, and currency from the casino in the case of cash out transactions.

¹³ See FinCEN Form 103; 31 CFR 103.27(d) and 103.28.

¹⁴ FinCEN Form 103 must be sent either through regular mail within 15 calendar days from the date of the transaction(s) (see 31 CFR 103.27) to the IRS Detroit Computing Center's address found in the instructions to this form or electronically within 25 calendar days from the date of the currency transaction(s) through FinCEN's BSA Direct E-Filing System.

¹⁵ See 71 FR 14129 (March 21, 2006).

¹ The statute generally referred to as the “Bank Secrecy Act,” Titles I and II of Pub. L. 91-508, as amended, is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332.

² Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (“USA PATRIOT”) Act of 2001, Pub. L. 107-56 (Oct. 26, 2001).

³ See 50 FR 5065 (Feb. 6, 1985). Casinos with gross annual gaming revenue not exceeding \$1 million were, and continue to be, excluded from requirements otherwise applicable to casinos and card clubs.

⁴ The Bank Secrecy Act defines the term “financial institution” at 31 U.S.C. 5312(a)(2).

therefore as examples of cash in transactions; and (ii) the addition of bills inserted into electronic gaming devices as an example of a cash in transaction. A discussion of the comments follows in the section-by-section analysis below.

IV. Section-by-Section Analysis

A. Jackpots From Slot Machines and Video Lottery Terminals—103.22(b)(2)(ii)(E) and 103.22(b)(2)(iii)(D)

As we explained in the Notice, jackpots from slot machines and video lottery terminals account for a significant portion of Currency Transaction Reports filed by casinos. Absent fraud or abuse of the slot machine or video lottery terminal, a customer¹⁶ who wins more than \$10,000 in jackpots at a slot machine or video lottery terminal generally will have won those funds solely because of the workings of the random number generator in the slot machine or in a central computer that is networked with the video lottery terminal. Accordingly, the jackpots are not likely to form part of a scheme to launder funds through the casino. Moreover, casinos are required to file federal income tax forms with the Internal Revenue Service on jackpots of \$1,200 or more; therefore, jackpots from slot machines and video terminals are not likely to form part of a scheme to evade taxes.

The commenters agreed with modifying 103.22(b)(2) to delete the reference to slot jackpots as reportable cash out transactions in currency. In addition, the commenters were nearly unanimous in asserting that this deletion would have no negative impact on law enforcement investigations.

We are adopting the proposed amendments regarding slot machine and video terminal jackpots without change. Thus, the final rule amends 103.22(b)(2)(ii)(E) by removing the reference to “slot jackpots” from the examples of cash out transactions, and adding paragraph 103.22(b)(2)(iii)(D), which exempts jackpots from slot machines and video lottery terminals as reportable cash out transactions.

B. Transactions With Currency Dealers or Exchangers and Check Cashers—103.22(b)(2)(iii)(A)

As described above, existing regulations require a casino to file a Currency Transaction Report for cash in or cash out transactions in excess of \$10,000 conducted between casinos and currency dealers or exchangers, and

between casinos and check cashers.¹⁷ In the Notice, FinCEN stated its view that as long as these currency transactions are conducted pursuant to a contractual or other arrangement with a casino covering those services in sections 103.22(b)(2)(i)(H), 103.22(b)(2)(ii)(G), and 103.22(b)(2)(ii)(H), these currency transactions should not be subject to a casino’s currency transaction reporting requirements. Requiring a casino to file Currency Transaction Reports for these transactions, which do not pose a significant money laundering risk, would result in duplicative reports, since currency dealers or exchangers and check cashers are already required to file Currency Transaction Reports on them.¹⁸ Accordingly, we believe that Currency Transaction Reports filed by casinos on these transactions do not have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

Commenters generally supported the proposed amendment,¹⁹ and we are adopting it without change. Thus, the final rule amends 103.22(b)(2) by exempting certain transactions with currency dealers or exchangers and check cashers as reportable transactions for currency transaction reporting purposes.

C. Other Amendments

1. *Purchases of chips, tokens, and other gaming instruments—103.22(b)(2)(i)(A).* We proposed to amend 103.22(b)(2)(i)(A) by removing the reference to “plaques,” another name for a high value chip, and including a reference to “other gaming instruments.” A “gaming instrument” would include any casino-issued financial product that is used to facilitate a gaming transaction (e.g., high dollar denomination plaques used in playing baccarat games and cheques used in playing roulette), including those associated with a particular customer.

Fewer than half of the commenters addressed this proposal, but they agreed generally with broadening the category of casino-issued financial products that

facilitate gaming transactions. One commenter asked for clarification about whether the purchase of a casino “smart card” would represent the purchase of a gaming instrument. If the customer must establish a personal identification number (PIN) and an account number prior to receiving a casino smart card, it is FinCEN’s view that the casino should treat the transaction as a form of “front money deposit,” and not the purchase of a gaming instrument.²⁰ FinCEN is adopting the proposed amendment without change.

2. *Bets of currency, including money plays—103.22(b)(2)(i)(E).* Under the existing regulations, a bet of currency is listed as an example of a cash in transaction.²¹ Our Notice included an explicit reference to money plays as bets of currency. In a money play, a customer places currency on the table prior to the beginning of play. The dealer does not exchange the currency for chips, and the currency is not placed in a table “drop-box” unless the customer loses the wager. Our Notice stated that a money play is a transaction in currency involving cash in regardless of whether the customer wins or loses the wager.²² Under current non-federal regulations, money plays are only permitted in Mississippi, Nevada, and certain gaming tribal jurisdictions. Within those few jurisdictions, money plays represent a comparatively small number of bets.

Most of the comments on this proposed amendment disagreed with including money plays as an example of bets of currency that are reportable as cash in transactions. Commenters argued that a money play is a transaction in currency only to the extent the customer loses the wager and the dealer places the currency in a drop-box. Commenters contended that when a customer wins a money play there occurs no physical transfer of currency—from the customer to the casino, or from the casino to the customer. Commenters also argued that a money play in which the customer wins the wager involves no conversion of funds and therefore poses no risk of money laundering.

Commenters also noted that treating money plays as bets of currency could result in Currency Transaction Reports that they believe are misleading. For example, if a customer wins a money play, the currency wagered would be returned to the customer and also

¹⁷ Since July 1997, the instructions to FinCEN Form 103 have included language excluding transactions with currency dealers or exchangers, as well as transactions with check checkers. The language will be revised to reflect the language in 103.22(b)(2)(iii)(A).

¹⁸ This amendment does not affect the obligations of currency dealers or exchangers and check cashers under the rule requiring these businesses to file Currency Transaction Reports. See 31 CFR 103.22(b)(2).

¹⁹ One commenter suggested that FinCEN consider additional exclusions for transactions between casinos and other entities that also may result in duplicative filings. Such transactions are not addressed in the final rule.

²⁰ See 31 CFR 103.22(b)(2)(i)(B).

²¹ See 31 CFR 103.22(b)(2)(i)(E).

²² We reached the same conclusion in FinCEN Ruling FIN-2006-R002—A Cash Wager on Table Game Play Represents a “Bet of Currency,” (March 24, 2006).

¹⁶ See 31 CFR 103.64(b)(3).

treated as a cash out transaction even though the transaction involved the same currency the customer used to make the money play. Similarly, if a customer wins a money play at a table and re-bets the same currency at the table, two cash in transactions that may need to be aggregated would occur, with the result that the customer would appear to have brought more money into the casino than in fact is the case.

FinCEN continues to maintain that money plays at a table game are bets of currency, regardless of whether the customer wins, and that these are cash in transactions under Bank Secrecy Act regulations once the customer can no longer retrieve the bet.²³ We are, however, exempting money plays to the extent the customer wagers the same physical currency that the customer wagered on a prior money play on the same table game, and the customer has not departed from the table. We have also concluded that when a customer wins a money play wager, the currency won would be a cash out transaction. However, since the currency used to place the wager is the same physical currency received when the customer wins the bet, we are exempting such cash out transactions from the currency transaction reporting requirements.

Therefore, the final rule amends 103.22(b)(2)(i)(E), as proposed, to include money plays as bets of currency. Further, the final rule amends proposed 103.22(b)(2)(iii) by excluding from cash out transactions the currency won in a money play when that currency is the same as the currency wagered in the money play. In addition, the final rule excludes from cash in transactions, currency wagered in a money play to the extent it is the same physical currency the customer previously wagered in a money play on the same table game without leaving the table.²⁴

²³ Even though a money play may not involve the conversion of funds and therefore poses no risk of money laundering, information about large amounts of currency wagered in money plays can be highly useful in other criminal investigations or in tax investigations.

²⁴ Thus, for example, if a customer wagers \$4,000 in currency on a table game, wins, and immediately rebets the currency, there is no aggregation of those bets. The exemption is not, however, intended to exclude from currency transaction reporting an amount over \$10,000 simply because the customer previously bet the currency. Therefore, if a customer bets \$4,000 in currency on a table game, wins, and immediately re-bets the \$4,000 together with an additional \$7,000 in currency, for a total wager of \$11,000, the customer would be treated as making a single transaction involving more than \$10,000. This means that when a customer increases a subsequent cash bet, at the same table game without departing, the increase in the amount of the currency bet would represent a new bet of currency and a transaction in currency.

3. *Bills inserted into electronic gaming devices—103.22(b)(2)(i)(I).* In the Notice, we proposed to amend 103.22(b)(2)(i)(I) by including bills inserted into electronic gaming devices as an example of a cash in transaction. “Electronic gaming devices” would include slot machines and video lottery terminals.

This proposal generated the most comments. All commenters on this proposal, except for one, asserted that slot machines and other electronic gaming devices pose a low risk for money laundering activity and that FinCEN’s proposal to include bills inserted into electronic gaming devices as a type of reportable cash in transaction should be rejected.

Most commenters observed that, contrary to FinCEN’s assertion, existing business practices and records would not adequately report bills inserted into electronic devices, in part because most systems capture play only for customers who are using a club card.²⁵ According to the commenters, it is not the industry norm to require customers to be cardholders in order to play slot machines. In fact, several commenters indicated that uncarded play represents between 40–50 percent of all play. The majority of commenters also pointed out that the data gathered by tracking the play of cardholders may be misleading, incomplete and inaccurate for several reasons. First, there is no way for casinos to ensure that a patron is actually the person using his or her card, since patrons may share cards with friends and family, or inadvertently leave a card in a machine resulting in the next player’s bills being attributed incorrectly to the previous patron.²⁶ According to the commenters, this situation may result in flawed per-customer totals and lead to the filing of erroneous Currency Transaction

²⁵ A club card (also called “player card”) is a card issued by a casino to customers who wish to establish an account with and become members of that casino’s “player club.” Such cards, aside from serving as marketing devices, allow casinos to track the play associated with the card in exchange for which the cardholder is eligible for certain privileges and/or rewards. To become a member of a player club, a customer must provide or present identification. The customer’s computerized slot account record typically contains the customer’s name, permanent address, date of birth, and sometimes additional identification information.

²⁶ While casinos may not be able to ensure that customers do not deliberately or intentionally share slot or club cards, casinos may have strong reasons independent of the Bank Secrecy Act to prevent such sharing. Casinos often rely on slot or club cards as internal marketing tools to identify customers who engage in frequent or substantial gaming activity, and to encourage continued patronage through the awarding of “complimentaries.” It is FinCEN’s understanding that many casinos, in fact, have policies that prohibit the sharing of slot or club cards.

Reports. Second, even for those casinos that have systems in place to track slot play, commenters indicate that the industry standard is to capture a total amount of cash in per player, which includes not just bills inserted but also any credits earned. The commenters as a group (including a company that designs, produces, programs, installs, services and operates gaming machines in the United States) asserted that the development of a system to capture the data sought would take significant time and resources. In addition, the commenters observed that such a system would deter money laundering by cardholders only, a group unlikely to engage in money laundering activity given that they must provide identification as a prerequisite to obtaining a card.

Several commenters noted that, while electronic gaming devices generally present low risk for money laundering activity to begin with (given the relatively labor-intensive process of inserting bills one at a time), potential safeguards already exist to prevent such activity. For example, according to the commenters, casino personnel are already trained to file a Suspicious Activity Report in such situations or in situations where a customer appears to be “fast-feeding” a machine.

Several commenters also expressed concern that the proposal would generate confusion when compared with guidance issued by FinCEN in February 2005 regarding the “knowledge” requirement.²⁷ One commenter requested clarification from FinCEN regarding the knowledge requirement and suggested that FinCEN limit the knowledge of transactions to “contemporaneous knowledge,” with the result that a transaction would be reportable if an employee is aware of the activity as it is happening. Other commenters observed that even casinos that are able to track data associated with electronic gaming devices still will not have “knowledge” that a player has inserted currency into a machine because casino data systems do not generate a record of player identity and the amount of currency inserted.

We note that the amendment would not have changed the existing obligations of casinos to report currency transactions. Under our existing rules, customers inserting currency into electronic gaming devices are conducting “cash in” transactions. Further, the amendment would not have

²⁷ See FinCEN Ruling 2005–1—Currency Transaction Reporting: Aggregation by Casinos at Slot Machines, (Feb. 7, 2005) (“FinCEN Ruling 2005–1”).

created any new recordkeeping or aggregation requirements.²⁸ For purposes of determining whether to aggregate multiple transactions involving the insertion of currency into slot machines and other electronic gaming devices and file Currency Transaction Reports, the existing knowledge standard continues to apply. Under 31 CFR 103.22(c)(3) multiple transactions are treated as a single transaction if the casino has knowledge that the transactions are by or on behalf of any person and result in cash in totaling more than \$10,000 during any gaming day. A casino has knowledge if its officers, directors, or employees have knowledge that multiple currency transactions have occurred, including knowledge from examining records which contain information that such multiple currency transactions have occurred. As explained in FinCEN Ruling 2005–1, the mere existence of information in the records would not represent knowledge of the information by the casino; rather an officer, director, or employee must have knowledge of the information, which could be obtained by observation of a patron's activity or by examination of the casino's records.²⁹

Accordingly, the final rule retains the specific reference to "bills inserted into electronic gaming devices" as an example of cash in transactions. However, the final rule expressly exempts from reporting requirements with respect to multiple transactions the insertion of currency into an electronic gaming device unless the casino has knowledge that this activity gives rise to a reportable currency transaction, in which case this exemption would not apply.

4. *Redemptions of chips, tokens, tickets and other gaming instruments—103.22(b)(2)(ii)(A).* We proposed to amend 103.22(b)(2)(ii)(A) by removing the reference to plaques and including a reference to "tickets and other gaming instruments." A "ticket" is a document issued by a slot machine, video lottery terminal, or a pari-mutuel clerk to a customer as a record of either a wager

or the insertion or transfer of funds.³⁰ A customer can wager a ticket at a machine or terminal that accepts tickets, or redeem a ticket for currency at a cage, slot booth, redemption kiosk, or pari-mutuel window. A gaming instrument would encompass any casino-issued financial product that is used to facilitate a gaming transaction.

We received six comments on the proposal. Only one commenter opposed the proposal. The commenter opposing the proposal raised concerns relating to the identification of patrons that redeem tickets at kiosks or terminals.³¹ The commenter's concerns notwithstanding, the amendment would not have changed the obligations of casinos under our rules, and we are adopting the amendment as proposed.

5. *Payments by a casino to a customer based on receipt of funds through wire transfers—103.22(b)(2)(ii)(F).* We proposed to amend 103.22(b)(2)(ii)(F) pertaining to payments in currency by a casino to a customer based on receipt of funds through a wire transfer. Specifically, we proposed to delete the phrase "for credit to a customer" because the reference to credit for this type of cash transaction has been confusing for some casinos. We received one comment to this amendment, which agreed with the revision. We are, therefore, adopting the amendment as proposed.

6. *Travel and complimentary expenses and gaming incentives—103.22(b)(2)(ii)(I).* In the Notice, we proposed to amend 103.22(b)(2)(ii)(I) by replacing the term "entertainment" with the term "complimentary,"³² and by adding the phrase "gaming incentives."

³⁰ Tickets are voucher slips printed with the name and the address of the gaming establishment, the stated monetary value of the ticket, date and time, number or other information identifying the machine or terminal, ticket number, and a unique bar code. Tickets are a casino bearer "IOU" instrument. Slot machines or video lottery terminals that print tickets are commonly known as "ticket in/ticket out" or "TITO."

³¹ Many casinos offer multi-function customer kiosk machines, connected to a gateway or kiosk server, that can perform a variety of financial transactions, such as redeeming slot machine/video lottery tickets for currency, exchanging U.S. currency for U.S. currency (*i.e.*, breaking bills or paper money), redeeming player slot club points, and initiating electronic transfers of money to or from a wagering account including currency withdrawals on automated teller machines. It is also known as a "redemption kiosk." The redemption of tickets at kiosks or terminals is a cash out transaction to the extent funds are redeemed in the form of currency. While the tickets redeemed at kiosks or terminals do not contain the customer's name or any account number, it is FinCEN's understanding that customers usually are limited to redeeming tickets valued at no more than \$3,000 at a kiosk or terminal.

³² Although complimentary items typically are goods or services that a casino gives to a customer,

Most of the comments on this amendment agreed with the revision.³³ One commenter, however, argued that the revision was unnecessary because travel and complimentary expenses, which according to the commenter are already regulated by state and tribal authorities, present little opportunity for money laundering, tax evasion, or terrorist financing. While it is true that these expenses also are regulated at the state and tribal level, many transactions involving casinos that we regulate are regulated by other governmental authorities. In addition, we disagree that the risks associated with travel and complimentary expenses are as minimal as the commenter asserts. FinCEN is, therefore, adopting the amendment as it was proposed in keeping with our stated intention to update and clarify the categories of reportable cash out transactions.

7. *Payments for tournaments, contests, and other promotions—103.22(b)(2)(ii)(J).* In the Notice, we proposed to amend 103.22(b)(2)(ii)(J) by adding "payments for tournaments, contests, or other promotions" as examples of cash out transactions.

Most of the comments on this amendment also agreed with the revision. One commenter, however, argued that the addition of this example was unjustified. According to the commenter, there is a small likelihood that tournaments, contests, or promotions would factor into any scheme to launder money, evade taxes, or finance terrorism. FinCEN was not persuaded by these arguments and is adopting the proposed amendment in keeping with its stated intention to update and clarify the categories of reportable cash out transactions.

V. Revision of FinCEN Form 103

To assist casinos and card clubs in completing FinCEN Form 103, Currency Transaction Report by Casinos, FinCEN is providing the following guidance for items affected by this final rule. Slot jackpots are no longer required to be reported in item 31d (or elsewhere on the form). Money play bets are reported as cash in transactions in item 30d ("currency wager(s)"). Bills inserted into electronic gaming devices are reported as cash in transactions in item

at reduced or no cost, based on significant play, they can also be in the form of currency.

³³ One commenter asked for a clarification of the exclusion of complimentary player meals, coupons, and redemption of club points for merchandise. As long as a casino does not provide currency to customers that have player rating or slot club accounts for purchasing meals or merchandise, or redeeming coupons, then these redemptions are exempted from currency transaction reporting requirements.

²⁸ Thus, for example, the proposal would not have required casinos to create multiple transaction logs or develop or upgrade systems for processing or capturing information.

²⁹ Moreover, as we described in FinCEN Ruling 2005–1, a casino could gain knowledge for currency transaction reporting purposes in the course of complying with its other obligations under the Bank Secrecy Act. ("[K]nowledge for purposes of 31 CFR 103.22(c)(3) includes knowledge acquired in complying with other requirements under the Bank Secrecy Act—including the requirement to report suspicious transactions, and requirements that related to Bank Secrecy Act compliance or anti-money laundering programs.")

30h (“other (specify)”), with the words “bills inserted in EGDs” in the space immediately following “(specify)”. The redemptions of tickets are reported as cash out transactions in item 31a (“redemptions of casino chips, tokens and other gaming instruments”). Casinos may continue to use the current version of Form 103 if they complete it in accordance with this guidance. However, FinCEN is posting on its website a revised copy of Form 103 with minor editorial changes to reflect this guidance along with updated instructions to reflect the exemptions contained in § 103.22(b)(2)(iii) in this final rule.

VI. Executive Order 12866

The Department of the Treasury has determined that this rule is not a significant regulatory action under Executive Order 12866.

VII. Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities, since the regulatory reporting threshold excludes casinos whose gross annual gaming revenues do not exceed \$1 million. In addition, the final rule exempts previously reportable transactions, such as jackpots from slot machines and video lottery terminals, as well as cash out transactions involving certain money plays, from the final rule’s reporting obligations.

VIII. Effective Date

This rule is being made effective without a delayed effective date in accordance with 5 U.S.C. 553(d)(1).

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (government agencies), Banks and banking, Currency, Gambling, Indian gaming, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is hereby amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FINANCIAL TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

- 2. Section 103.22 is amended by:
 - A. Revising paragraphs (b)(2)(i)(A), (E), (G), and (H), and adding a new paragraph (b)(2)(i)(I);
 - B. Revising paragraphs (b)(2)(ii)(A), (E), (F), (H), and (I), and adding a new paragraph (b)(2)(ii)(J); and
 - C. Adding a new paragraph (b)(2)(iii).
- The revisions and additions read as follows:

§ 103.22 Reports of transactions in currency.

- * * * * *
- (b) * * *
- (2) * * *
- (i) * * *
- (A) Purchases of chips, tokens, and other gaming instruments; * * *
- (E) Bets of currency, including money plays; * * *
- (G) Purchases of a casino’s check;
- (H) Exchanges of currency for currency, including foreign currency; and
- (I) Bills inserted into electronic gaming devices.
- (ii) * * *
- (A) Redemptions of chips, tokens, tickets, and other gaming instruments; * * *
- (E) Payments on bets;
- (F) Payments by a casino to a customer based on receipt of funds through wire transfers; * * *
- (H) Exchanges of currency for currency, including foreign currency;
- (I) Travel and complimentary expenses and gaming incentives; and
- (J) Payment for tournament, contests, and other promotions.
- (iii) Other provisions of this part notwithstanding, casinos are exempted from the reporting obligations found in §§ 103.22(b)(2) and (c)(3) for the following transactions in currency or currency transactions:
- (A) Transactions between a casino and a currency dealer or exchanger, or between a casino and a check casher, as those terms are defined in § 103.11(uu), so long as such transactions are conducted pursuant to a contractual or other arrangement with a casino covering the financial services in §§ 103.22(b)(2)(i)(H), 103.22(b)(2)(ii)(G), and 103.22(b)(2)(ii)(H);
- (B) Cash out transactions to the extent the currency is won in a money play and is the same currency the customer wagered in the money play, or cash in transactions to the extent the currency is the same currency the customer previously wagered in a money play on the same table game without leaving the table;
- (C) Bills inserted into electronic gaming devices in multiple transactions (unless a casino has knowledge

pursuant to § 103.22(c)(3) in which case this exemption would not apply); and

(D) Jackpots from slot machines or video lottery terminals.

* * * * *

Dated: June 20, 2007.

James H. Freis, Jr.,
Director, Financial Crimes Enforcement Network.

[FR Doc. E7–12332 Filed 6–25–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–079]

RIN 1625–AA00

Safety Zone; Foundation Amistad Fireworks, East Hampton, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Foundation Amistad Fireworks in East Hampton, NY. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

DATES: This rule is effective from 8:30 p.m. on July 14, 2007 until 10:30 p.m. on July 15, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–079 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard did not receive an Application for Approval of Marine Event for this